

CHRISTOPHER LITTLE

vs.

JOHN R. PRICE ET AL.

} DECEMBER TERM, 1847.

[EFFECT OF AN INJUNCTION ON PROCEEDINGS AT LAW—LIMITATIONS.]

THE object of an injunction to stay proceedings at law, either before or after judgment, is to prevent the party against whom it issues, from availing himself of an unfair advantage, resulting from accident, mistake, fraud, or otherwise, and which would, therefore, be against conscience.

If such unfair advantage has been already obtained, by proceeding to judgment, the court will in like manner control the judgment, and restore the party to his original rights.

This can only be done by depriving his adversary of every advantage, which the judgment thus improperly obtained, gives him, and cannot be limited merely, to restraining him from proceeding upon it at law.

Hence, an injunction commanding and enjoining the complainant, to cease from all proceedings on his judgment recovered at law, was held to operate to restrain him from proceeding in equity.

It is well settled by the Maryland decisions, that chancery will never interfere with judgments at law, where the party's own default, or neglect, has made an application to the latter tribunal necessary.

The running of the act of limitations is suspended by an injunction

[The facts in this case are fully stated in the Chancellor's opinion.]

THE CHANCELLOR :

This is a creditor's bill filed against the devisees and others, representing, or supposed to represent, the real and personal estate of Hyland Price, deceased, and prays for a sale of the real estate left by him, upon an allegation of the insufficiency of the personality.

The bill was filed on the 21st of August, 1846, and alleges, that in the year 1822, the complainant obtained a judgment of condemnation against the said Price, upon an attachment which he had sued out on a judgment in his favor against one George Davidson, rendered in 1819—that he had subsequently issued a scire facias on the said judgment of condemnation, and obtained a fiat executio at April term, 1829, of the Cecil County Court, with a stay of execution until January, 1830—that the